

107TH CONGRESS
1ST SESSION

H. R. 2239

To reform certain laws affecting child labor, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2001

Ms. ROYBAL-ALLARD (for herself, Mr. REYES, Mr. PASTOR, Ms. SOLIS, Mr. BACA, Mrs. NAPOLITANO, Mr. RODRIGUEZ, Mr. ACEVEDO-VILÁ, Mr. BECERRA, Mr. ORTIZ, Mr. SERRANO, Mr. HINOJOSA, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. UNDERWOOD, Mr. MENENDEZ, Ms. VELÁZQUEZ, and Ms. SANCHEZ) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reform certain laws affecting child labor, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Children’s Act for Re-
5 sponsible Employment of 2001” or the “CARE Act of
6 2001”.

1 **SEC. 2. CHILD AGRICULTURAL EMPLOYMENT.**

2 (a) FAMILY AGRICULTURAL EMPLOYMENT.—Section
3 13(c)(1) of the Fair Labor Standards Act of 1938 (29
4 U.S.C. 213(c)(1)) is amended to read as follows:

5 “(c)(1) The provisions of section 12 relating to child
6 labor shall not apply to any employee employed in agri-
7 culture outside of school hours for the school district
8 where such employee is living while so employed, if such
9 employee is employed by a family member of such em-
10 ployee on a farm that is owned or operated by such family
11 member. In this paragraph, the term ‘family member’
12 means a parent, grandparent, aunt, uncle, first cousin, or
13 legal guardian.”.

14 (b) OTHER CHILD AGRICULTURAL EMPLOYMENT.—
15 Section 13(c) of such Act (29 U.S.C. 213(c)) is further
16 amended by striking paragraphs (2) and (4).

17 **SEC. 3. CIVIL AND CRIMINAL PENALTIES FOR CHILD**
18 **LABOR VIOLATIONS.**

19 (a) CIVIL PENALTY.—Section 16(e) of the Fair
20 Labor Standards Act of 1938 (29 U.S.C. 216(e)) is
21 amended in the first sentence by striking “not to exceed
22 \$10,000” and inserting “not less than \$500 nor more
23 than \$15,000”.

24 (b) PRIVATE RIGHT OF ACTION.—Section 16 of such
25 Act (29 U.S.C. 216) is amended by adding at the end the
26 following new subsection:

1 “(f)(1) An employee (or the legal guardian or sur-
2 vivor of such employee) aggrieved by a violation of section
3 12 resulting in serious bodily injury to, or the serious ill-
4 ness or death of, such an employee may, in a civil action,
5 recover from the employer of such employee appropriate
6 legal or equitable relief.

7 “(2) An action under this subsection may be brought
8 in a Federal or State court of competent jurisdiction, with-
9 out regard to the amount in controversy.

10 “(3) In an action under this subsection, a court shall,
11 in addition to any judgment ordered, allow a prevailing
12 plaintiff to recover from the defendant the costs of the
13 action and reasonable attorney fees.

14 “(4) If a plaintiff has recovered compensation under
15 a State workers’ compensation law for the same violation
16 as alleged in an action under this subsection, a court may
17 consider the amount recovered under such State law when
18 awarding any relief under this subsection.

19 “(5) If a plaintiff collects a judgment under this sub-
20 section and also seeks recovery for the same violation
21 under a State workers’ compensation law, a State may
22 elect to offset recovery obtained under this subsection
23 against any recovery provided under such State law.”.

24 (c) CRIMINAL PENALTIES.—Section 16(a) of such
25 Act (29 U.S.C. 216(a)) is amended—

1 (1) by striking “Any” and inserting “(1) Ex-
2 cept as provided in paragraph (2), any”; and

3 (2) by adding at the end the following new
4 paragraph:

5 “(2) Any person who violates the provisions of section
6 15(a)(4) concerning child labor shall upon conviction be
7 subject to a fine under title 18, United States Code, or
8 to imprisonment for not more than 5 years, or both, in
9 the case of—

10 “(A) a willful or repeat violation that results in
11 or contributes to a fatality of a minor employee or
12 a permanent disability of a minor employee; or

13 “(B) a violation which is concurrent with a
14 criminal violation of any other provision of this Act
15 or of any other Federal or State law concerning
16 child labor.”.

17 (d) RULE OF CONSTRUCTION.—Nothing in the
18 amendments made by this section may be construed to
19 preempt any State law that provides protections or rem-
20 edies for employees that are greater than the protections
21 or remedies provided under such amendments.

22 **SEC. 4. REPORTING AND RECORDKEEPING.**

23 (a) IN GENERAL.—Section 12 of the Fair Labor
24 Standards Act of 1938 (29 U.S.C. 212) is amended by
25 adding at the end the following new subsection:

1 “(e)(1) The Secretary, using information provided by
2 the Director of the Bureau of the Census, shall biannually
3 compile, and make available to the public, data from re-
4 spective State employment security agencies and from
5 other sources in all the States concerning—

6 “(A) the types of industries and occupations in
7 which children under the age of 18 years are em-
8 ployed; and

9 “(B) cases in which the Secretary determines
10 that such children were employed in violation of this
11 section.

12 “(2)(A) Each employer who employs an employee
13 under the age of 18 years shall report to the Secretary
14 and the appropriate State employment security agency any
15 injury (including an injury resulting in death) to such em-
16 ployee that results in lost employment time of at least one
17 working day or any illness such employee incurred in the
18 course of employment.

19 “(B) Such report shall be made not later than five
20 days after such injury or illness and shall include—

21 “(i) the age of the child;

22 “(ii) the nature of the job in which the em-
23 ployee is employed (including large-scale, commercial
24 agriculture);

1 “(iii) the circumstances surrounding the injury
2 or illness to such employee; and

3 “(iv) to the extent permitted under an applica-
4 ble State or Federal law, the report of any physician
5 and health care facility which provided care for such
6 employee.

7 “(3) Using information collected under paragraphs
8 (1) and (2), the Secretary shall submit to the Congress
9 a biannual report on the status of child labor in the United
10 States and its attendant safety and health hazards.”.

11 (b) INITIAL COMPILATION AND REPORT.—The first
12 compilation and report under paragraphs (1) and (3), re-
13 spectively, of section 12(e) of such Act (29 U.S.C.
14 212(e)(1) and (3)), as added by subsection (a) of this sec-
15 tion, shall be completed not later than 2 years after the
16 date of enactment of this Act.

17 **SEC. 5. COORDINATION.**

18 Section 4 of the Fair Labor Standards Act of 1938
19 (29 U.S.C. 204) is amended by adding at the end the fol-
20 lowing new subsection:

21 “(g) The Secretary shall encourage and, where prac-
22 ticable, establish closer working relationships with non-
23 governmental organizations and with State and local gov-
24 ernment agencies having responsibility for administering
25 and enforcing labor and safety and health laws. Upon the

1 request of the Secretary and to the extent permissible
2 under applicable law, State and local government agencies
3 with information regarding injuries and deaths of employ-
4 ees shall submit such information to the Secretary for use
5 as appropriate in the enforcement of section 12 and in
6 the promulgation and interpretation of the regulations and
7 orders authorized by section 3(l). The Secretary may reim-
8 burse such State and local government agencies for such
9 services.”.

10 **SEC. 6. CHILD LABOR ENFORCEMENT.**

11 Subject to the availability of appropriations, the Sec-
12 retary of Labor shall—

13 (1) employ at least 100 additional inspectors
14 within the Wage and Hour Division of the Depart-
15 ment of Labor for the principal purpose of enforcing
16 compliance with child labor laws; and

17 (2) provide for a 10-percent increase in the
18 budget for the Employment Standards Division
19 within the office of the Solicitor of Labor for the
20 principal purpose of increasing prosecution of viola-
21 tions of child labor laws.

22 **SEC. 7. WORKER PROTECTION STANDARD.**

23 (a) IN GENERAL.—Section 25 of the Federal Insecti-
24 cide, Fungicide, and Rodenticide Act (7 U.S.C. 136w) is

1 amended by adding at the end the following new sub-
2 section:

3 “(f) WORKER PROTECTION STANDARD.—

4 “(1) FARMWORKER CHILDREN AND WOMEN.—

5 “(A) IN GENERAL.—For the purpose of af-
6 fording greater protection to children and
7 women employed on, or present near, farms, the
8 Administrator, in consultation with the Sec-
9 retary of Labor, shall revise the worker protec-
10 tion standard promulgated under this section to
11 take into account the routine presence of chil-
12 dren through age 18 years (including nursing
13 children) and nursing or pregnant women em-
14 ployed on, or present near, a farm or in or
15 around a field in which a pesticide is applied,
16 necessitating separate and more stringent regu-
17 lations for restricted entry intervals and other
18 pertinent worker health and safety standards,
19 in view of the physiological differences between
20 men and such children and women and the dif-
21 ferential impact of pesticides and correspond-
22 ingly greater risks posed to such children and
23 women.

24 “(B) PERIODIC REVIEW.—The Adminis-
25 trator, in consultation with the Secretary of

1 Labor, shall review all facets of the worker pro-
2 tection standard at least once every 5 years
3 after the date of enactment of this subsection
4 to take into account and incorporate advances
5 in scientific knowledge regarding the consider-
6 ations described in subparagraph (A).

7 “(2) SCOPE AND REPORTING OF INSPEC-
8 TIONS.—The Administrator shall—

9 “(A) promulgate specific requirements to
10 be fulfilled in the conduct of all inspections re-
11 garding compliance with the worker protection
12 standard promulgated under this section; and

13 “(B) publish an annual report on the find-
14 ings and results of the inspections for each
15 State.”.

16 (b) CONFORMING AMENDMENT.—The table of con-
17 tents in section 1(b) of such Act (7 U.S.C. prec. 121) is
18 amended by adding at the end of the items relating to
19 section 25 the following new items:

“(e) Peer review.

“(f) Worker protection standard.

“(1) Farmworker children and women.

“(2) Scope and reporting of inspections.”.

1 **SEC. 8. MIGRANT AND SEASONAL FARMWORKER YOUTH**
 2 **DROPOUT PREVENTION.**

3 (a) IN GENERAL.—Section 129 of the Workforce In-
 4 vestment Act of 1998 (29 U.S.C. 2854) is amended by
 5 adding at the end the following new subsection:

6 “(d) MIGRANT AND SEASONAL FARMWORKER YOUTH
 7 DROPOUT PREVENTION.—

8 “(1) AUTHORIZED PROGRAM ACTIVITIES.—The
 9 Secretary shall make grants on a competitive basis
 10 to assist grant recipients to provide the following
 11 programs to migratory youth:

12 “(A) Programs that provide an objective
 13 assessment of the academic levels, skill levels,
 14 and service needs of each participant, which as-
 15 sessment shall include a review of basic skills,
 16 interests, aptitudes, supportive service needs,
 17 and developmental needs of such participant. A
 18 new assessment of a participant shall not be re-
 19 quired if the provider carrying out such a pro-
 20 gram determines it is appropriate to use a re-
 21 cent assessment of the participant conducted
 22 under another education or training program.

1 “(B) Programs that develop service strate-
2 gies for each participant that shall identify an
3 academic goal, appropriate achievement objec-
4 tives, and appropriate services for the partici-
5 pant taking into account the assessment con-
6 ducted under subparagraph (A). A new service
7 strategy for a participant shall not be required
8 if the provider carrying out such a program de-
9 termines it is appropriate to use a recent serv-
10 ice strategy developed for the participant under
11 another education or training program.

12 “(C) Programs that provide preparation
13 for postsecondary educational opportunities, in
14 appropriate cases.

15 “(D) Programs that provide strong link-
16 ages between academic and occupational learn-
17 ing preparation for unsubsidized employment
18 opportunities, in appropriate cases.

19 “(2) PROGRAM ELEMENTS.—The programs de-
20 scribed in subparagraphs (C) and (D) of paragraph
21 (1) shall include the following elements:

22 “(A) Tutoring, study skills training, and
23 instruction, leading to completion of secondary
24 school, including dropout prevention strategies.

1 “(B) Alternative secondary school services,
2 as appropriate.

3 “(C) Summer employment opportunities
4 that are directly linked to academic and occupa-
5 tional learning.

6 “(D) Paid and unpaid work experiences,
7 including internships and job shadowing, as ap-
8 propriate.

9 “(E) Visits to institutions of higher edu-
10 cation, as appropriate.

11 “(F) Leadership development opportuni-
12 ties, which may include community service and
13 peer-centered activities encouraging responsi-
14 bility and other positive social behaviors during
15 nonschool hours, as appropriate.

16 “(G) Comprehensive guidance and coun-
17 seling, which may include drug and alcohol
18 abuse counseling and referral, as appropriate.

19 “(H) Adult mentoring for the period of
20 participation in a program under subparagraph
21 (C) or (D) of paragraph (1) and a subsequent
22 period, for a total of not less than 12 months.

23 “(I) Followup services for not less than
24 one year after the completion of participation in

1 a program under subsection (C) or (D) of para-
2 graph (1), as appropriate.

3 “(J) Stipends to offset loss of work-related
4 income or loss of potential work-related income.
5 Any such stipend shall be paid to the parent or
6 guardian of the migratory youth (or to the
7 youth, if such youth is emancipated under an
8 applicable State law), if such parent or guard-
9 ian (or youth) provides to the grant recipient—

10 “(i) proof of enrollment in an edu-
11 cation program (including current school
12 records or, if school is not in session,
13 school records from the previous academic
14 year); and

15 “(ii) if the migratory youth is em-
16 ployed, a statement from the employer de-
17 scribing the employment and the working
18 hours of such youth, or if the migratory
19 youth is not employed, a statement stating
20 that fact.

21 “(3) CONDITION.—A recipient of a grant under
22 this subsection shall coordinate its activities with
23 those of State or local educational agencies providing
24 programs authorized under part C of title I of the

1 Elementary and Secondary Education Act of 1965
2 (20 U.S.C. 6391 et seq.).

3 “(4) MIGRATORY YOUTH DEFINED.—In this
4 subsection, the term ‘migratory youth’ means a mi-
5 gratory child (as such term is defined in section
6 1309(2) of the Elementary and Secondary Edu-
7 cation Act of 1965 (20 U.S.C. 6399(2))) who is at
8 least 12 years old and not more than 18 years old.

9 “(5) ADMINISTRATION, DATA COLLECTION, AND
10 EVALUATION.—

11 “(A) IN GENERAL.—The Secretary may re-
12 serve up to 6 percent of the funds made avail-
13 able under section 127(b)(1)(A)(iii) for the mi-
14 grant and seasonal farmworker youth dropout
15 prevention program under this subsection for
16 administration, data collection, and evaluation
17 of the program.

18 “(B) SPECIAL RESERVATION.—Subject to
19 available appropriations, the Secretary shall use
20 up to 2 percent of the funds made available
21 under section 127(b)(1)(A)(iii) to enter into a
22 contract with a national farmworker
23 organization—

24 “(i) to establish and maintain an elec-
25 tronic database of program participants;

1 “(ii) to operate a toll-free national
2 telephone program information line to as-
3 sist migratory youth in accessing dropout
4 prevention services under this subsection;

5 “(iii) to assist the Departments of
6 Labor and Education in developing appro-
7 priate methods for evaluating the program
8 under this subsection;

9 “(iv) to provide technical assistance
10 and training to grant recipients; and

11 “(v) to develop a migrant and sea-
12 sonal farmworker youth dropout prevention
13 model based on the best practices used in
14 successful programs.

15 “(6) AVAILABILITY OF PROGRAM UNDER THIS
16 SUBSECTION.—Notwithstanding section 188(a)(5) or
17 any other provision of law, a program under this
18 subsection may be made available to an immigrant
19 other than one authorized by the Attorney General
20 to work in the United States.”.

21 (b) PURPOSES.—Section 129(a) of such Act (29
22 U.S.C. 2854(a)) is amended—

23 (1) in paragraph (5), by striking “and” at the
24 end;

1 (2) in paragraph (6), by striking the period at
2 the end and inserting “; and”; and

3 (3) by adding at the end the following new
4 paragraph:

5 “(7) to provide supportive services, opportuni-
6 ties, and incentives to eligible migrant and seasonal
7 farmworker youth to encourage and assist them in
8 remaining in secondary school through graduation.”.

9 (c) FUNDING.—Section 127(b)(1)(A)(iii) of such Act
10 (29 U.S.C. 2851(b)(1)(A)(iii)) is amended by inserting
11 “the greater of \$50,000,000 or” after “make available”.

12 (d) CROSS-REFERENCE.—Section 167(d) of such Act
13 (29 U.S.C. 2912(d)) is amended by inserting “(including
14 activities under section 129(d))” after “dropout preven-
15 tion activities”.

16 **SEC. 9. FAIR LABOR STANDARDS REGULATIONS.**

17 Not later than 120 days after the date of enactment
18 of this Act, the Secretary of Labor shall promulgate regu-
19 lations to carry out sections 2 through 6 and the amend-
20 ments made by such sections. Such regulations shall take
21 effect not later than 30 days after the date of such pro-
22 mulgation.

1 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to carry out
3 this Act and the amendments made by this Act such sums
4 as may be necessary.

5 **SEC. 11. EFFECTIVE DATE FOR FAIR LABOR STANDARDS**
6 **AMENDMENTS.**

7 The amendments made by sections 2 through 5 of
8 this Act shall take effect on the date that the rules pro-
9 mulgated under section 9 take effect.

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